

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Thursday, April 1, 2004

Division Two

**A103237 -- In re Travis C., a Person Coming Under the Juvenile Court Law. Contra Costa County Department of Children and Family Services v. Kevin C. et al.**

The challenged orders of July 9, 2003 are affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A101477 -- Kelly Kearney et al. v. Salomon Smith Barney, Inc.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Certified for Publication.)

Division Three

**A104725 -- Lily Cates Naify v. Thomas Worth, et al.**

By the Court: Cross-Appellants Thomas Worth et al., having filed a request for dismissal in this court, the cross-appeal is dismissed. McGuiness, P.J.

Friday, April 2, 2004

Division Five

**A103701 -- In re Travis J., a Person Coming Under the Juvenile Court Law. Contra Costa County Social Service Department v. Sandra J.**

The order terminating parental rights is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

Monday, April 05, 2004

Division One

**A099237 -- The People v. Raymond Annin.**

Order Modifying Opinion and Denying Rehearing. The request for publication of the unpublished portions of the case is denied because the unpublished portions either apply established legal principles, or dispose of appellant's claims based upon facts limited to this case. It is ordered that the opinion filed herein on March 4, 2004, be modified as follows: (See order.) There is no change in the judgment. Appellant's petition for rehearing is denied. Stein, Acting P.J. (Certified for Partial Publication.)

Division Two

**A105609 -- Mark Leabo v. Trina Cheng, et al.**

By the Court: Appellant having failed to procure the record on appeal within the time allowed or within any valid extensions of time, and having failed to apply for relief from default, the appeal filed on February 11, 2004 is dismissed. (See Cal. Rules of court, rule 8(b).) Kline, P.J.

Division Five

**A104337 -- The People v. Aleksander Kukharets.**

The judgment of conviction is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A100655 -- Mat J. Rogers v. Herman Franck et al.**

We vacate the punitive damage award against Franck, and the matter is remanded for the trial court to reconsider Franck's motion for remittitur as to punitive damages, or in the alternative for a new trial on this issue of punitive damages. The judgment is otherwise affirmed. Each party to bear its own costs on appeal. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Tuesday, April 06, 2004

Division One

**A102850 -- In re Ugo G., a Person Coming Under the Juvenile Court Law. The People v. Ugo G.**

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

**A104252 -- Tod Mikuriya v. Medical Board of California, et al.**

By the Court: The motion to dismiss the appeal is granted and the appeal is dismissed. Stein, Acting P.J.

Division Two

**A104064 -- The People v. Janelle Still Well.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Three

**A096854 -- The People v. Thomas Franklin Wheelock.**

The judgment is affirmed. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Certified for Partial Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Wednesday, April 7, 2004

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., Margulies, J., and F. Abad, Deputy Clerk.

- A103251     In re Christina M.  
              The People,  
              v.  
              Christina M.  
Cause called and argued by Jacques Leboeuf, counsel for appellant, and Martin Kaye, counsel for respondent. Cause ordered submitted.
- A104012     Department of Alcoholic Beverage Control,  
              v.  
              Alcoholic Beverage Control Appeals Board;  
              Aiyaz K Masani, et al.  
Cause called and argued by Michael Sweeney, counsel for petitioner, and Harold Spaulding, counsel for respondents. Cause ordered submitted.
- A102401     Thomas H. Paine, et al.,  
              v.  
              Franchise Tax Board.  
Cause called and argued by Marguerite Stricklin, counsel for appellant, and Edward Winslow, counsel for respondents. Cause ordered submitted.
- At this point in the proceedings, Justice Stein left the bench and Justice Swager joined the bench.
- A102070     Colin Scott,  
              v.  
              Emily Scott.  
Cause called and argued by Colin Scott, appellant in pro per, and Georgia Petrie, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Wednesday, April 7, 2004

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., Swager, J., and B. Robbins, Deputy Clerk.

- A103142      University of California Board of Regents,  
                         v.  
                         Harry J. Williby.  
Cause called and argued by Harry J. Williby, appellant in pro per, via teleconference, and Michael R. Goldstein, counsel for respondent. Cause ordered submitted.
- A10260      The People,  
                         v.  
                         Arthur Lee Harris.  
Cause called and argued by Irma C. Castillo, counsel for appellant, and Michael Banister, counsel for respondent. Cause ordered submitted.
- A101457      The People,  
                         v.  
                         Everett Gullett.  
Cause called and argued by Robert W. Gehring, counsel for appellant, and Allen Crown, counsel for respondent. Cause ordered submitted.
- A101034      The People,  
                         v.  
                         Darrell Calhoun.  
Cause called and argued by Ozro W. Childs, counsel for appellant, and Jeffrey Laurence, counsel for respondent. Cause ordered submitted.
- A100828      Christine Casciani,  
                         v.  
                         Nikolin Jean Casciani.  
Cause called and argued by Alan Gregory Wonderwheel, counsel for appellant, and Cavier Lavoipierre, counsel for respondent. Cause ordered submitted.

A097977 John Nady,

A100417 v.

Alan Wofsy.

Cause called and argued by Frederic D. Schrag, counsel for appellant/cross-respondent, and Jeffrey Leon, counsel for respondent/cross-appellant. Cause ordered submitted.

Court adjourned until Thursday, April 8, 2004 at 9:00 a.m.

Wednesday, April 7, 2004

Division Two

**A098994 -- Brandy Stewart v. Ward Silk Haynes et al.**

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

**A102841 -- Grace Vasquez v. Money Mart Express, Inc.**

The trial court's denial of the petition to compel arbitration is reversed and the matter remanded for further proceedings consistent with this opinion. The parties shall bear their own costs on appeal. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A091444 -- Leonard Whiteley v. Philip Morris Inc. et al.**

The judgment is reversed and the matter remanded to the trial court for further proceedings in accordance with the views set forth herein. Each party is to bear its own costs on appeal. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Certified for Publication.)

**A102991 -- The People v. Katie Jo Yates.**

The order appealed from is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

**A099183 -- The People v. John Olson.**

The judgment is affirmed. McGuinness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)



Thursday, April 08, 2004

Division One

**A097932 -- Delta V-A LTD. et al. v. The State of California et al.**

The judgment is affirmed. We are without jurisdiction to affirm or reverse the order for costs. The Department is awarded its costs on appeal. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Thursday, April 8, 2004

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Stein, Acting P.J., Swager, J., Margulies, J., and F. Abad, Deputy Clerk.

- A103584     In re Rafael Q.  
              The People,  
              v.  
              Rafael Q.  
Cause called and argued by Patrick Meyering, counsel for appellant, and Martin Kaye, counsel for respondent. Cause ordered submitted.
- A103088     In re Adam C.  
              The People,  
              v.  
              Adam C.  
Cause called and argued by Daniel Byrne, counsel for appellant via teleconferencing, and Martin Kaye, counsel for respondent. Cause ordered submitted.
- A104314     Mark E. Schakel II, et al.,  
              v.  
              The Superior Court of Sonoma County;  
              Gary Derosier.  
Cause called and argued by William Horsey, counsel for petitioners, and Bruce Blakely, counsel for respondent. Petitioner submitted a declaration of Dane Jones. J. Stein ordered courtroom clerk to lodge the declaration. Cause ordered submitted.
- A103879     Estate of Miguel Rossello, Jr.  
              Maria Guzman,  
              v.  
              John Hearney, et al.  
Cause called and argued by Richard Canatella, counsel for appellant, and Richard Veres, counsel for respondents. Cause ordered submitted.

A101821 Anna Maria Zocca, et al.,  
A101822 v.  
A102844 Giovanni Zocca.  
A103712 Cause called and argued by William Balin, counsel for Anna Zocca, et al.,  
and Christopher Cole, counsel for Giovanni Zocca. Cause ordered  
submitted.

Court adjourned.

Thursday, April 08, 2004 (continued)

Division Three

**A101228 -- The People v. Jason Dedrick.**

By the Court: The petition for rehearing is denied. McGuiness, P.J.

**A101891 -- The People v. Calvin Terell Worley.**

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Division Five

**A100984 -- The People v. Jonathan M. Bueno.**

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A102104 -- In re The Marriage of Karen Marie Schmidt and Randolph Carl Green.**

The judgment of nullity is reversed and the matter remanded with directions that the trial court enter a judgment of dissolution and divide the estate in further proceedings consistent with this opinion. The parties shall bear their own costs on appeal. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication.)

Friday, April 9, 2004

Division One

**A102123 -- The People v. Juan Christopher Cruz.**

We modify the judgment to reflect an award of 470 days of custody credit and 234 days of conduct credit, for a total presentence of 704 days. The clerk of the superior court is ordered to prepare an amended abstract of judgment reflecting this modification, and to transmit the amended abstract of judgment to the Department of Corrections. As so modified, the judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

**A102801 -- The People v. Francis Tucker.**

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Division Two

**A103159 -- In re Earlina H., a Person Coming Under the Juvenile Court Law. The People v. Earlina H.**

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Division Three

**A104628 -- The People v. John Teeters.**

In sum, we find no arguable issues for review pursuant to *People v. Wende*, *supra*, 25 Cal.3d 436. The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Pollak, J. (Not for Publication.)

**A101563 -- The People v. Kevin Roger Williams.**

By the Court: The petition for rehearing is denied. McGuiness, P.J.

Friday, April 9, 2004 (continued)

Division Four

**A091787 -- Jackson Plaza Homeowners Association v. Alcal Roofing and Insulation.**

HOA's purported appeals of the summary judgments entered in favor of Alcal (A091787) and Gonzalez (A092084) are dismissed. The judgment entered in favor of New West on HOA's complaint (A092537) is affirmed, as is the judgment entered in favor of New West on Wong Construction's cross-complaint (A092000). The judgments in A092062 are affirmed. The orders awarding attorney fees in A092730 are affirmed, with costs on appeal. The parties are to bear their own costs on all other appeals. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Division Five

**A103134 -- The People v. John Solomon.**

The trial court is ordered to prepare and to forward to the Department of Corrections an amended abstract of judgment striking the \$200 restitution fine imposed in SC052442a. In all other respects, the judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

Monday, April 12, 2004

Division One

**A103854 -- The People v. Lacy Mitchell.**

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

Division Two

**A095433 -- The People v. James Ary.**

By the Court: The petition for rehearing is granted. Haerle, Acting P.J.

**A105605 -- The People v. Miscal Valerio Loya.**

By the Court: Defendant Miscal Valerio Loya purports to appeal from a December 11, 2003 amended abstract of judgment. Because the amended abstract of judgment served only to correct a clerical omission in the prior abstract of judgment – namely, the fact defendant had been sentenced pursuant to the two-strikes law – it does not affect the substantial rights of defendant and, hence, is not appealable. (See Pen. Code, § 1237, subd. (b).) Accordingly, the above-referenced appeal is hereby dismissed. Kline, P.J.

**A104953 -- Misty Mountain Ranch For Children With Cancer v. Leslie Fields.**

By the Court: Appellant having filed a request for dismissal in this court, the appeal is dismissed. Kline, P.J.

Division Four

**A103054 -- The People v. Ramon Antonio Barraza.**

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Monday, April 12, 2004 (continued)

**A103346 -- The People v. Richard Andrew Conness.**

The judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

**A101342 -- Tracy Dugar v. United Parcel Service, Inc., et al.**

We reverse and remand with respect to the Dugar's retaliation claim against UPS and affirm the judgment of nonsuit in all other respects. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

**A102887 -- The People v. Richard Gibson.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

**A101032 -- The People v. Raymond Lee Gray.**

The judgment of conviction is reversed as to counts 1, 3, 5, 7, 9, 11, and 13; in all other respects the judgment is affirmed. The clerk of the superior court is directed to prepare an amended abstract of judgment and forward a certified copy to the Department of Corrections. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

**In re L.P. and A.R., Persons Coming Under the Juvenile Court Law. Alameda County Social Services v. A.P.**

The visitation order as to L.P. is reversed and remanded for further proceedings consistent with this opinion. The orders of the juvenile court are affirmed in all other respects. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

**A102010 -- The People v. Hanas White.**

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)



Monday, April 12, 2004 (continued)

Division Five

**A102571 -- The People v. Michael Douglas Martino.**

The judgment is affirmed. Simons, J. We Concur: Stevens, J., Gemello, J.  
(Not for Publication.)

**A102111 -- The People v. Romolo Velasquez.**

The judgment is affirmed. Simons, J. We Concur: Stevens, Acting P.J.,  
Gemello, J. (Not for Publication.)

Tuesday, April 13, 2004

Division One

**A104314 -- Mark E. Schakel II et al. v. The Superior Court of Sonoma County; Gary DeRosier, R.P.I.**

Let a peremptory writ of mandate issue directing respondent, Sonoma County Superior Court, to vacate its order of September 9, 2003 granting plaintiff leave to file an amended complaint in *DeRosier v. Schakel et al.* (case No. SCV 231416). Respondent is directed to issue a new order denying without prejudice the motion to file an amended complaint and striking the filing of the first amended complaint, if any such filing has occurred. The parties shall bear their own costs. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

**A097011 -- The People v. Demetrius Leslie Conwell et al.**

**A101881 -- In re Demetrius Leslie Conwell on Habeas Corpus.**

**A101927 -- In re Mario Christopher Washington on Habeas Corpus.**

Order Modifying Opinion and Denying Petition for Rehearing. The opinion filed on March 15, 2004, is modified by adding the following four paragraphs to the end of part II, at page 61: (See order.) The foregoing modification does not effect a change in the judgment. Each appellant's petition for rehearing is denied. Lambden, J. (Not for Publication.)

**A105233 -- Lavenia S. v. The Superior Court of San Francisco County; San Francisco County Department of Human Services, R.P.I.**

The petition for extraordinary writ is denied on the merits. Since the permanency planning hearing is presently set for May 5, 2004, our decision on the writ petition is final as to this court immediately. (Cal. Rules of Court, rule 24(b)(3).) Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A100230 -- In re Tony N., a Person Coming Under the Juvenile Court Law. The People v. Tony N.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Tuesday, April 13, 2004 (continued)

**A102039 -- In re Steven S., a Person Coming Under the Juvenile Court Law. The People v. Steven S.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J.  
(Not for Publication.)

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, April 13, 2004

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco, California. Present: Kay, P.J., Reardon, J., and Sepulveda, J.; Pamela Aguilar, Deputy Clerk; CHP Officer Joe Fraiser, Bailiff.

A103219     Matt Oakes  
              v.  
              Rosamaria Castiloo  
Cause called. Appellant Matt A. Oakes argued on his own behalf. Respondent was not present. Cause submitted.

A104466     City of St. Helena  
              v.  
              Public Utilities Commission  
Cause called. Patrick Power argued for petitioner City of St. Helena. Judith Allen argued for respondent Public Utilities Commission. James Squeri argued for real party in interest Napa Valley Wine Train. Cause submitted.

At this point the court reconstituted itself to include: Kay, P.J., Reardon, J. and Rivera, J.

A102518     City of Morgan Hill et al.  
              v.  
              Bay Area Air Quality Management District et al.  
Cause called. Stephen Volker argued via telephone for appellants City of Morgan Hill et al. Alexander Crockett argued for respondents BAAQMD et al. Richard Ratliff argued for \*\*. Jeffrey Harris argued for real party in interest \*\*. Cause submitted.

A101237     Transport Workers Union of America  
              v.  
              City and County of San Francisco et al.  
Cause called. Kenneth C. Absalom argued for appellant Transport Workers Union. Philip Ginsburg argued for respondents. Cause submitted.

The court recessed at 11:04 a.m.

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, April 13, 2004

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kay, P.J., Sepulveda, J., and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Vince Chambers and Guardsmark Officer Tamicka Bell, Bailiffs.

A101660     A. F. Evans Company, Inc. et al.  
              v.  
              Doheny-Vidovich Partners  
Cause called. Douglas A. Applegate argued for appellant Doheny-Vidovich. Robert Knox argued for respondents. Cause submitted.

At this point, the Court reconstituted itself to include Kay, P.J., Reardon, J., and Rivera, J.

A102603     Cynthia M. Lopez  
              v.  
              Charles Schwab & Co.  
Cause called. James C. Sturdevant argued for appellant Lopez. Gilbert R. Serota argued for respondent. Cause submitted.

The Court adjourned at 2:42 p.m.

Tuesday, April 13, 2004 (continued)

Division Five

**A103812 -- Conservatorship of the Person and Estate of Joan B.**

The trial court's judgment and order authorizing medical procedures are affirmed, with the exception of the special disabilities, which are vacated. This matter is remanded to the trial court for further proceedings regarding the special disabilities. No costs are awarded pursuant to California Rules of Court, rule 39.4. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication.)

**A100430 -- The People v. Michael Gregory Ledesma.**

The judgment is affirmed. Simons, J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

Wednesday, April 14, 2004

Division One

**A102285 -- People of the State of California v. Rocky Alan Craft.**

The trial court is directed to prepare and forward to the Department of Corrections an amended abstract of judgment in case No. E98826M that awards 150 actual days and 224 total days of custody credit. In all other respects the judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A103584 -- In re Rafael Q., a Person Coming Under the Juvenile Court Law. The People v. Rafael Q.**

The findings and order appealed from are affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

**A103575 -- GMAC Mortgage Corporation v. Teresita V. Lapid.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A102148 -- Howard Zack et al. v. Marin Emergency Radio Authority; Town of Tiburon, R.P.I.**

The instant claim is not for damages against a common carrier, and is therefore not explicitly authorized by section 207 of title 47 of the United States Code. (*Maydak v. Bonded Credit Co., Inc.*, *supra*, 96 F.3d at p. 1334.) Nor is the Zack plaintiffs' claim within any of the recognized exceptions to the presumption against private claims; as in *Maydak*, "it was neither the type of action explicitly authorized by statute (permitting a carrier to be sued), nor the type permitted in developing federal common law (permitting a carrier to sue)." (*Ibid.*) For the foregoing reasons, the judgment is reversed. Appellant MERA is awarded its costs on appeal. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Wednesday, April 14, 2004

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuiness, P.J., Parrilli, J., Pollak, J. and I. Calanoc, Deputy Clerk.

A103940 Suzan Hughes,

v.

Conrad Lee Klein, et al.,

Cause called and argued by Hillel Chodos, counsel for appellant; and

David Nelson and Lynard Hinojosa, counsel for respondents. Cause ordered submitted.

A103239 In re Orlando G., et al., Persons Coming

Under the Juvenile Court Law.

Social Services Agency,

v.

Charon P.

Cause called and argued by Sheri Mae Cohen, counsel for appellant, and Steven Rettig, counsel for respondent. Cause ordered submitted.

A103152 Christine Peterson,

v.

Whole Food Markets, Inc.

Cause called and argued by Christine Peterson, appellant in pro per and Todd Hedin, counsel for respondent. Cause ordered submitted. Parrilli, J. left the bench.

A101547 Marilou Cotchett Sells,

v.

Angelo Orphan, et al.

Corrigan, J. approached the bench. The panel for this case is comprised of Corrigan, J., McGuiness, P.J. and Pollak, J. Cause called and argued by Linda Mallette, counsel for appellant, and George Eshoo, counsel for respondents. Cause ordered submitted.

A100714 CCPA NO. 1,



v.

County of Sonoma.

The panel for this case is comprised of Corrigan, J., McGuiness, P.J. and Pollak, J. Cause called and argued by Brett Price, counsel for appellant, and Ronald Lipp, counsel for respondent. Cause ordered submitted. Pollak, J. left the bench.

A097378 The People,

v.

Allie James Bell.

Parrilli, J. approached the bench. The panel for this case is comprised of Corrigan, J., McGuiness, P.J. and Parrilli, J. Cause called and argued by Richard Braucher, counsel for appellant, and Catherine McBrien, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED.

Wednesday, April 14, 2004 (continued)

Division Five

**A098177 -- The People v. Michael Anthony Davis.**

The judgment is reversed. The case is remanded for resentencing consistent with this opinion. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A101975 -- The People v. Gary Michael.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

**A102152 -- Eveilia Plancarte v. Guardsmark, LLC.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

**A102565 -- The People v. Rodney C. Woods.**

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Thursday, April 15, 2004

Division One

**A103619 -- The People v. Allen Thomas Courtois.**

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A103859 -- The People v. Eric Madrigal.**

We find no arguable issues after a full review of the record and, accordingly, affirm the judgment. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Five

**A103362/A103805 -- In re Zarina H., et al., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Serina H.**

The orders are affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A102703 -- In re Derek S., a Person Coming Under the Juvenile Court Law. The People v. Derek S.**

The order is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Friday, April 16, 2004

Division One

**A102281 -- The People v. Lashanda Willis.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A102248 -- Frank Zeller, Jr., as Trustee, etc. v. Georgeanne Klein.**

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

**A105920 -- In re Retirement Cases.**

The Court: The above-entitled case is hereby dismissed by this court since the notice of appeal is from an interim order, nonappealable under Code of Civil Procedure 904.1. Kline, P.J.

Division Three

**A103239 -- In re Orlando G., et al., Persons Coming Under the Juvenile Court Law. Contra Costa County Social Services Agency v. Charon P.**

The dispositional order is reversed. The matter is remanded for further proceedings consistent with this opinion. Parrilli, J. We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)

Division Four

**A101660 -- A.F. Evans Company, Inc. v. Doheny-Vidovich Partners.**

The order denying the petition to confirm the award is affirmed. Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Friday, April 16, 2004 (continued)

**A101356 -- The People v. Jermaine Edward Casey.**

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

**A103141 -- Diana J. Heze v. Robinson Rancheria Bingo & Casino et al.**

The case is remanded to the trial court for its determination of whether it had subject matter jurisdiction when rendering judgment. If the court finds that it lacked subject matter jurisdiction, the court shall vacate the judgment. If the court finds that it had subject matter jurisdiction, the judgment shall stand. The parties shall bear their own costs incurred on appeal. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

**A104000 -- In re Kevin S., a Person Coming Under the Juvenile Court Law. The People v. Kevin S.**

The dispositional order is affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

**A101237 -- Transport Workers Union of America, Local 250A, AFL-CIO v. City and County of San Francisco et al.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

Monday, April 19, 2004

Division One

**A104727 -- Contra Costa County Children and Family Services  
Bureau v. The Superior Court of Contra Costa County; Lynda O., R.P.I.**

Order Modifying Opinion. It is ordered that the opinion filed herein on March 26, 2004, be modified as follows: (See order.) There is no change in the judgment. Stein, Acting P.J. (Certified for Publication.)

**A103251 -- In re Cristina M., a Person Coming Under the Juvenile  
Court Law. The People v. Cristina M.**

This matter is remanded to the juvenile court for the limited purpose of an express declaration pursuant to Welfare and Institutions Code section 702 and possible recalculation of the maximum period of physical confinement. In all other respects the dispositional orders appealed from are affirmed. Margulies, J. I Concur: Stein, J. (See concurring opinion of Marchiano, P.J.) (Not for Publication.)

Division Two

**A102714 -- Hopland Public Utility District v. Mendocino County  
Russian River Flood Control and Water Conservation Improvement District.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A103089, A103531 -- In re Jordan M., a Person Coming Under the  
Juvenile Court Law. Contra Costa County, Bureau of Children and Family  
Services v. Jacinto G.**

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

**A102721 -- Raymond J. Raymond v. The Liberties Bar and Restaurant  
et al.**

The appeal is dismissed for the failure of appellant to provide the court with intelligible legal argument in his briefs. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Monday, April 19, 2004 (continued)

Division Three

**A101492 -- The People v. Adan Torres Ortega.**

By the Court: The petition for rehearing is denied. McGuinness, P.J.

**A097648 -- The People v. Randy R. Reyes et al.**

The three-year gang enhancement imposed on Ruiz pursuant to Penal Code section 186.22 is ordered stricken and in all other respects the judgments are affirmed. Pollak, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

Division Four

**A103700 -- In re Sidney S., a Person Coming Under the Juvenile Court Law. The People v. Sidney S.**

The juvenile court's order is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Tuesday, April 20, 2004

Division Two

**A103678 -- Rainer Joachim Faerber v. The Hyde Law Corporation et al.**

The judgment is affirmed. Respondents are awarded costs. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A102568 -- The People v. Jeffrey Dean Robinson.**

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

**A102114 -- The People v. Glen L. Thompson.**

The judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

**A100771 -- Hortensia Watts v. Michael C. Dolan et al.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)



MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION TWO

Tuesday, April 20, 2004

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Lambden, J., and S. Graham, Deputy Clerk.

- A099945     The People  
              v.  
              Ellis Lorenzo Lockett  
Cause called and argued by J. Frank McCabe, counsel for appellant and Laurence Sullivan, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A101182     The People  
              v.  
              Andrew E., a Minor  
Cause called and argued by V. Elizabeth Grayson, counsel for appellant and Rene Chacon, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A100215     The People  
A100546     v.  
              Jesus Flores and  
              Juan Velante Reyes  
Cause called and argued by Charles B. Holzhauer, counsel for Flores, Thea Greenhalgh, counsel for appellant Reyes and Michael Chamberlain, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A102873     Patricia Samples  
              v.  
              Bill Lockyer, etc., et al.  
Cause called and argued by Mark Clausen, counsel for appellant and Kathy Lynch, counsel for respondent. Cause ordered submitted.

A100285      A. Peter Evans  
v.  
City of East Palo Alto, et al.  
Ikea Property, Inc.  
Cause called and argued by A. Peter Evans, appellant and propria persona  
and Lee Rosenthal, counsel for respondents. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P. J., Haerle, J. Lambden,  
J., Ruvolo, J., and I. Santos, Deputy Clerk. Presiding Justice Kline  
announces that the panel for the first case will be himself, Justice Haerle,  
and Justice Lambden and the remainder of the calendar will consist of  
Justice Haerle, Justice Lambden and Justice Ruvolo.

A099989      The People,  
v.  
Nythell Ray Collins.  
Cause called and argued by Janice Brickley, counsel for appellant, and  
George Hindall, Deputy Attorney General, counsel for respondent. Cause  
ordered submitted.

At this point in the proceedings, Justice Kline left the bench.

A099264      The People,  
v.  
Robert James Preston.  
Cause called and argued and Dennis Riordan, counsel for appellant, and  
Ann Wathen, Deputy Attorney General, counsel for respondent. Cause  
ordered submitted.

A102292      Carmen L. Alicea,  
v.  
Golden Eagle Insurance Corporation,  
LaJolla Pacific Insurance Agency.  
Cause called and argued by Rachel Hobbs, counsel for appellant, and  
Timothy Gonzales, counsel for respondent. Cause ordered submitted.

A104876      Civil Service Employees Insurance Co.,

v.

Superior Court; Jay Tobin, RPI.

Cause called and argued by Marc Poster, counsel for petitioner and Nick Reckas, counsel for real party in interest. Cause ordered submitted.

**COURT ADJOURNED.**

Tuesday, April 20, 2004 (continued)

Division Three

**A103940 -- Conrad Lee Klein, et al., as Trustees, etc. v. Alexander Reynolds Hughes, a Minor, etc.**

The order is affirmed. Hughes shall bear costs of the appeal. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A103152 -- Christine Peterson v. Whole Foods Market California, Inc.**

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A103171 -- The People v. Ryan Michael Schwab.**

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Four

**A103219 -- In re the Marriage of Matt A. and Rosamaria M. Oakes.**

Those portions of the order appealed from are affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

**A102702 -- Richard Gentry v. Laborers Local Union No. 139.**

The judgment is affirmed. The request for sanctions is denied. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

**A103617 -- The People v. Ricardo Roybal-Valmonte.**

The case is remanded for imposition or striking of the sentencing enhancement. In all other respects, the judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Wednesday, April 21, 2004

Division One

**A103769 -- In re Jasmine C. et al., Persons Coming Under the Juvenile Court Law. Contra Costa County Social Service Department v. Bridget A.**

The final judgments of the juvenile court, including the no-contact order, are affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

**A100828 -- Christine Casciani v. Nickolin Casciani.**

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

**A101821, A102844, A103712 -- Commonwealth Land Title Company v. Giovanni Zocca et al.; Raffaele S. Zocca et al.**

**A101822 -- Giovanni Zocca v. Raffaele S. Zocca et al.**

In case No. A102844, the order granting a new trial is reversed and the case is remanded to the trial court for a determination, consistent with the views expressed herein, of: (1) whether Raffaele and Mary Zocca are entitled to file an amended complaint for statutory damages under section 724.070; and (2) if so, whether these parties are entitled to a new trial on such amended pleading. In case Nos. A101821 and A103712, the judgment against Anna Maria Zocca and in favor of Giovanni Zocca is affirmed and the postjudgment order awarding costs against Anna Maria Zocca is reversed with directions to enter a new order awarding Giovanni Zocca costs in the amount of \$17, 051.04 against Anna Maria. In case No. A101822, the appeal is dismissed as premature. Costs on appeal are awarded as follows: (1) to Giovanni Zocca in case Nos. A101821 and A103712; (2) to respondents in case No. A101822; and (3) each side to bear its own costs in case No. A102844. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Thursday, April 22, 2004

Division One

**A101457 -- The People v. Everett Gullett.**

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

**A103480 -- Azadeh Maroufi v. Steven Gourley.**

By the Court: The petition for rehearing is denied. Marchiano, P.J.

Division Two

**A102312 -- In re Kevin C., a Person Coming Under the Juvenile Court Law. Contra Costa County Department of Children and Family Services v. T.J., et al.**

The court's finding at the dispositional hearing that reasonable efforts were made to avoid the need for removal is reversed. In all other respects, the orders are affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A101839 -- International Alliance of Theatrical Stage Employees and Moving Picture Machine Operators of the United States and Canada, Local No. 16 v. Charlotte Laughon.**

The judgment is reversed and the case remanded to the superior court for action not inconsistent with this opinion. Costs on appeal are awarded to appellant. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Certified for Publication.)

Division Five

**A101584 -- Walid Mando v. Ronald L. Aloise et al.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

**MINUTES**  
COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

DIVISION FIVE

Thursday, April 22, 2004

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Stevens, J.; Simons, J.; Gemello, J.; and Richard H. Sandvik, Deputy Clerk.

A10010    Gay Y. Gagnon

4

v.

Cheryl Duke

Cause called and argued by Jewell J. Hargleroad, counsel for appellant, and by Constantin V. Robostoff, counsel for respondent. Cause ordered submitted.

A10112    Jerod Popejoy

4

v.

Ricky Gomez et al.

Cause called and argued by Orrin Grover, counsel for appellant, and by John P. Garcia, counsel for respondent. Cause ordered submitted.

A10324    Clark Latterell

4

v.

Cross Country Bank et al.

Cause called and argued by Martin Bryce, counsel for appellant, and by Daniel Mulligan, counsel for respondent. Cause ordered submitted.

A10093    The People

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v.

James Michael Robichaud

Cause called and argued by Randi D. Covin, counsel for appellant, and by George F. Hindall, counsel for respondent. Cause ordered submitted.

Justice Simons left the bench and Justice Jones joined the bench.

A10347 California Alarm Association et al.  
7 v.  
San Francisco Board of Supervisors et al.  
Cause called and argued by Arthur B. Fine, counsel for appellant, and by Wayne K. Snodgrass, counsel for respondent. Cause ordered submitted.

A10093 The People  
3 v.  
Tino Pese  
Cause called and argued by Philip M. Brooks, counsel for appellant, and by Morris Lenk, counsel for respondent. Cause ordered submitted.

A10167 Mark Choi  
4 v.  
Edward L. Harvey  
Cause called and argued by Garrison C. Rees, counsel for appellant, and by Dana D. Sankary, counsel for respondent. Cause ordered submitted.

Justice Gemello left the bench and Justice Simons joined the bench.

A10296 Michael Dipirro  
1 v.  
American Isuzu Motors, Inc.  
Cause called and argued by Clifford A. Chanler, counsel for appellant, and by Carol R. Brophy, counsel for respondent. Cause ordered submitted.

A10213 Elizabeth A. La Macchia  
5 v.  
Residential Rent Stabilization and Arbitration Board of the City and County of San Francisco et al.  
Cause called and argued by Stanley G. Hilton, counsel for appellants, and by Kevin S. Dickey and Steven C. Williams, counsel for respondents. Cause ordered submitted.



A10280 Elizabeth A. La Macchia  
4 v.  
Residential Rent Stabilization and Arbitration Board of the City and County  
of San Francisco et al.  
Cause called and argued by Stanley G. Hilton, counsel for appellants, and by Kevin  
S. Dickey and Steven C. Williams, counsel for respondents. Cause ordered  
submitted.

Justice Stevens left the bench and Justice Gemello joined the bench.

A10284 Interstate Brands Corporation  
5 v.  
Law Office of Angela Alioto  
Waukeen McCoy et al.  
Cause called and argued by Zachary Best, counsel for appellants, and by Paul Justi,  
Paul E. Vallone, and Joshua Irwin, counsel for respondents. Cause ordered  
submitted.

Court is adjourned at 12:47 p.m.

Friday, April 23, 2004

Division One

**A102600 -- The People v. Arthur Lee Harris.**

The judgment is reversed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A102070 -- In re the Marriage of Emily and Colin Scott.**

The judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

**A103379 -- In re Allen M., a Person Coming Under the Juvenile Court Law. Lake County Department of Social Services v. Dale M.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Three

**A095890 -- The People v. Eric J. Bowers.**

Our prior opinion in this cause filed on April 30, 2002, is vacated. The judgment is reversed and the matter remanded to the superior court with directions to vacate its order denying the motion to suppress and to conduct a new evidentiary suppression hearing consistent with this opinion, in order to determine whether the officers' contact with appellant constituted a consensual encounter or a detention; and, if the latter, whether the detention was legally justified. Based on the evidence adduced in the new suppression hearing, the trial court shall enter a new order granting or denying the motion to suppress. If the superior court grants the motion to suppress, it shall vacate the judgment and afford appellant an opportunity to withdraw his plea. If the superior court denies the motion to suppress, it shall reinstate the judgment. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Certified for Publication.)

Monday, April 26, 2004

Division One

**A103318 -- The People v. Eric Emmitt Booze.**

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

Division Three

**A101326 -- In re Michael A., a Person Coming Under the Juvenile Court Law. The People v. Michael A.**

The dispositional order of November 21, 2002, is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

**A103252 -- In re Vanessa S., a Person Coming Under the Juvenile Court Law. The People v. Vanessa S.**

The dispositional order of May 27, 2003, is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Monday, April 26, 2004

Division Five

**A100713 -- Conservatorship of the Person of Dovella Cloyd.**

The order is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J.  
(Not for Publication.)

**A104307 -- In re Phil M., a Person Coming Under the Juvenile Court Law. The People v. Phil M.**

The orders are affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J.  
(Not for Publication.)

Tuesday, April 27, 2004

Division One

**A104521 -- The People v. Phillip Jeffery Bell.**

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

**A103879 -- Estate of Miguel Rossello, Jr., Deceased.**

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

**A099446 -- The People v. Ciriaco Cuara Valencia.**

The judgment of the trial court is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A104025 -- The People v. Roy Dean Wade.**

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A103142 -- The Regents of the University of California v. Harry J. Williby.**

The order is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Two

**A098680 & A098985 -- The People v. Aljenon Leroy Debose.**

The judgments in both the burglary case (A098985) and the battery case (A098680) are affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Tuesday, April 27, 2004 (continued)

**A101670 -- The People v. Daniel Patrick Harrington.**

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A104263 -- Power Generation Mexico, Inc., et al. v. Energy Power Development Corporation.**

By the Court: Pursuant to stipulation of counsel, the above-entitled appeal is ordered dismissed. Kline, P.J.

Division Three

**A101547 -- Marilou Cotchett Sells v. Angelo Orphan, et al.**

The judgment is reversed. The matter is remanded to the superior court with directions to vacate its order sustaining the demurrer to the first amended complaint, and issue a new order overruling the demurrer. Plaintiff is awarded costs on this appeal. Corrigan, J. We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)

Division Four

**A104216 -- The People v. Trenell Ricks.**

The judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, April 27, 2004

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco, California. Present: Reardon, Acting P.J., Sepulveda, J. and Kline, J. (by assignment); Pamela Aguilar, Deputy Clerk; CHP Officer Arnold Stamps, Bailiff.

A102929     John J. Davis, Jr. et al.  
              v.  
              Oppenheimer & Company et al.  
Cause called. Dawn shock argued for appellants Oppenheimer & Company et al. Laura Schlichtmann argued for respondents. Cause submitted.

At this point the court reconstituted itself to include: Kay, P.J., Reardon, J. and Rivera, J.

A103554     Bernard E. Moore et al.  
              v.  
              James C. Cassil et al.  
Cause called. Robert B. Fein argued for appellants Moore et al. Paul Gordon argued for respondents. Cause submitted.

A103166     Jo DiStefano  
              v.  
              Lam Research Corporation  
Cause called. David Kornbluh argued for appellant DiStefano. Stephen Tedesco argued for respondent. Cause submitted.

A102485     Steve Castellucci et al.  
              v.  
              Saks Fifth Avenue  
Cause called. Susan Rubenstein argued for appellants Castellucci et al. Peter G. Bertrand argued for respondents. Cause submitted.

At this point the court reconstituted itself to include: Reardon, Acting P.J., Sepulveda, J. and Rivera, J.

A102126 Eileen Brown  
v.  
Vincent Brown  
Cause called. Eileen Kotler argued for appellant Eileen Brown. Nancy Gunn argued for respondent. Cause submitted.

A102624 Mildred Drummond  
v.  
John Clifford Heater et al.  
Cause called. John Downing argued for appellants Heater et al. John Halley argued for respondent. Cause submitted.

The court recessed at 11:54 a.m.



MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR

Tuesday, April 27, 2004

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kay, P.J., Reardon, J., and Sepulveda, J.; Channing Hoo, Deputy Clerk; CHP Officer Arnold Stamps, Bailiff.

- A105634     Shawn H.  
                 v.  
                 Contra Costa County Superior Court  
                 Contra Costa County Department of Children & Family Services  
                 Cause called. James Mink argued for petitioner. Kathleen LaPlante argued  
                 for real party. Cause submitted.
- A104330     People  
                 v.  
                 David L.  
                 Cause called. Richard Krech argued for appellant David L. Ronald Niver  
                 argued for respondent. Cause submitted.
- A101789     Nathan Miller  
                 v.  
                 The McDonald Glenn Company et al.  
                 Cause called. Carl P.A. Nelson argued for appellant Miller. Arthur A. Small  
                 argued for respondents. Cause submitted.
- A099109     Deborah Halbach  
                 v.  
                 Van V. Halbach  
                 Cause called. Bernard N. Wolf argued for appellant Deborah Halbach. Lance  
                 Russell argued for respondent. Cause submitted.

At this point, the Court recessed from 2:43 pm to 2:49 pm and reconstituted itself to include Kay, P.J., Sepulveda, J., and Rivera, J.

A095215 Mohammad Rashedi et al.

A096717 v.

John McCue et al.

Causes called. David S. Ettinger argued for appellants/cross-respondents McCue et al. David Gross argued for respondents/cross-appellants. Causes submitted.

A099814 People

v.

Duane Nason

Cause called. In pro per appellant Duane Nason argued. Michele Swanson argued for respondent. Cause submitted.

The Court adjourned at 3:39 p.m.

Tuesday, April 27, 2004 (continued)

Division Five

**A102604 -- Willie Booker v. Boxer & Gerson; Kemper Insurance Group.**

The order is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

**A104451 -- In re Christopher C., a Person Coming Under the Juvenile Court Law. The People v. Christopher C.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

**A100104 -- Gay Y. Gagnon v. Cheryl Duke.**

The judgment is affirmed. The parties shall bear their own costs on appeal. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication.)

**A100817 -- The People v. Willie C. Ray.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

**A100930 -- The People v. James Michael Robichaud.**

Appellant's conviction of count four is reversed. The sentence imposed as to counts three and five are ordered stayed, under section 654. The judgment of conviction is otherwise affirmed. As a result of our rulings, appellant's prison sentence is reduced by two years, to a total of five years. The matter is remanded to the trial court for further proceedings consistent with this opinion, and the trial court shall prepare a new abstract of judgment, and forward it to the Department of Corrections. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Wednesday, April 28, 2004

Division One

**A103088 -- In re Adam C., a Person Coming Under the Juvenile Court Law. The People v. Adam C.**

The evidence also proves that appellant's use of force accompanied his intent to obtain money from his father. Appellant's claim that the physical confrontation with his father was "wholly unrelated" to the ultimate acquisition of money from him is based upon misperception of the evidence. While appellant correctly observes that the physical altercation began when he punched Gregory in the stomach during an "argument about the CD player," additional evidence was presented of appellant's subsequent use of physical force in connection with the extortion of money from his father. According to Gregory's statement to Officer Roberts, at the very least appellant repeatedly pushed and wrestled with the victim while making persistent, vehement demands for money. After the victim parted with his money and attempted to contact the police, appellant forcibly seized the telephone and used it to strike him in the face. Thus, the requisite joint operation of appellant's use of force and his intent to obtain money from the victim was established by substantial evidence. Accordingly, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

**A103294 -- In re Moises N., a Person Coming Under the Juvenile Court Law. The People v. Moises N.**

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A102401 -- Thomas H. Paine et al. v. Franchise Tax Board.**

The judgment is reversed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Certified for Publication.)

Division Two

**A105941 -- Fred C. Espey, as Trustee, etc. v. State of Israel.**

The appeal is dismissed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Wednesday, April 28, 2004 (continued)

**A100285 -- A. Peter Evans v. City of East Palo Alto et al.; IKEA Property, Inc., R.P.I. and Respondent.**

The appeal is dismissed. Respondents are awarded their costs on appeal. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Division Three

**A103042 -- City of Oakland v. Edward Bell.**

The orders from which the appeal was taken are affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

**A104202 -- The People v. Bo Posey.**

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A103811 -- Southern California Labor/Management Operating Engineers Contract Compliance Committee v. Chuck Cake.**

The appeal is dismissed. The clerk of this court shall issue remittitur forthwith. McGuiness, P.J. We Concur: Corrigan, J., Pollak, J. (Not for Publication.)

**A102747 -- In re the Marriage of Sanford S. Wadler and Vicki M. Wadler.**

The post-judgment order appealed from is reversed in part, and the matter is remanded with directions to enter a new order in accordance with this decision, confirming appellant's transfer of Bio-Rad stock to respondent as of September 17, 2002, as being in accordance with the stipulated Memorandum between the parties. In all other respects, the trial court's order is affirmed. Each party shall bear his or her own costs on this appeal. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Wednesday, April 28, 2004

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuiness, P.J., Corrigan, J., Parrilli, J., and I. Calanoc, Deputy Clerk.

A097014    The People,  
              v.  
              Nicholas Anthony Salcido.  
Cause called and argued by Philip Brooks, counsel for appellant; and  
Michael Banister, counsel for respondent. Cause ordered submitted.

A096633    The People,  
              v.  
              Asad Muhammad.  
Cause called and argued by James Gee, counsel for appellant, and David  
Rose, counsel for respondent. Cause ordered submitted.

A102749    In re Dominic B., a Person Coming Under  
              the Juvenile Court Law.  
              The People,  
              v.  
              Dominic B.  
Cause called and argued by Susan Kahn, counsel for appellant, and Michael  
Banister, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED

Wednesday, April 28, 2004 (continued)

Division Four

**A100739 -- Susan DiBenedetto v. Christopher E. Grell et al.**

The judgment is affirmed. Kay, P.J. I Concur: Sepulveda, J. (See concurring and dissenting opinion by Rivera, J.) (Not for Publication.)

Division Five

**A102127 -- The People v. Alejandro Michel.**

The judgment is affirmed. Simons, J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

**A100933 -- The People v. Tino Pese.**

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Thursday, April 29, 2004

Division One

**A102720 -- The People v. Vallient Charles Moore.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

**A102145 -- Ladonna Roman v. Larry Whedbee.**

The January 30, 2003 judgment against Whedbee is affirmed, but the judgment is modified by vacating any language that purports to suggest or declare the extent of Roman's ownership interest in the Tolenas property. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Two

**A098051-- Hayward Area Planning Association et al. v. Alameda County Transportation Authority et al.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

**A102749 -- In re Dominic B., a Person Coming Under the Juvenile Court Law. The People v. Dominic B.**

The commitment to CYA is reversed and the matter is remanded for further proceedings in conformity with this opinion. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

**A103339 & A104154 (Consolidated) -- In re the Marriage of Dawn and Shawn Quinlivan. Shawn P. Quinlivan v. Dawn v. Quinlivan.**

By the Court: Order Modifying Opinion and Denying Rehearing. It is ordered that the opinion filed herein on March 30, 2004 be modified as follows: (See order.) The petition for rehearing is denied. There is no change in the judgment. McGuiness, P.J. (Not for Publication.)



Thursday, April 29, 2004 (continued)

**A105624 -- The People v. Ulises Barragan Robles.**

Judgment affirmed. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

**A103359 -- In re Matthew S., et al., Persons Coming Under the Juvenile Court Law. Humboldt County Department of Health and Human Services v. Elisabeth B.**

The appeal is dismissed as moot. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A102711 -- In re Angel V., a Person Coming Under the Juvenile Court Law. Contra Costa County Social Services Agency v. George V.**

The juvenile court's orders are affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

**A099569 -- The People v. Travis Wells.**

The judgment is affirmed. Parrilli, J. I Concur: Corrigan, Acting P.J. (See concurring opinion by Pollak, J.) (Certified for Partial Publication.)

Division Four

**A102126 -- In re the Marriage of Vincent and Eileen Brown.**

The judgment is affirmed. The request for sanctions is denied. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A105634 -- Shawn H. v. The Superior Court of Contra Costa County; Contra Costa County Department of Children and Family Services, R.P.I.**

The petition for extraordinary writ is denied on the merits. (§ 366.26, subd. (1)(1)(C); Cal. Rules of Court, rule 39.1(B) (*o*); *In re Julie S.* (1996) 48 Cal.App.4th 988, 990-991.) Our decision is final immediately. (Cal. rules of Court, rule 24(b)(3).) The request for a stay of the May 25, 2004 permanency planning hearing is denied as moot. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Thursday, April 29, 2004 (continued)

**A102603 -- Cynthia M. Lopez v. Charles Schwab & Co., Inc.**

The judgment is reversed. The matter is remanded to the superior court for further proceedings consistent with this opinion. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

**A101789 -- Nathan Miller v. The McDonald Glenn Company.**

The judgment dismissing Nimco's complaint is affirmed. The judgment in Glenn's favor on its cross-complaint is reversed. The parties will bear their own costs on appeal. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A103078 -- In re Jerome G., a Person Coming Under the Juvenile Court Law. San Francisco Department of Human Services v. Charlett R.**

The order on the supplemental petition is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A105174 -- The People v. Donald Snow.**

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

**A103767 -- The People v. Jerzy Surmaj.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Friday, April 30, 2004

Division One

**A102016 -- The People v. Kenneth William Fields.**

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

Division Two

**A099615 -- The People v. Wajih Mouhamad Ajib.**

The judgment is reversed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

**A104564 -- The People v. Reighland Allen Soloria Hoganas.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

**A097378 -- The People v. Allie James Bell.**

The judgment is reversed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Certified for Publication.)

**A104011 -- The People v. Eric F. Gentry.**

The order is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A102607 -- The People v. Michael Lia.**

The judgment is affirmed. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

Friday, April 30, 2004 (continued)

**A099848 -- The People v. Michael Martin, et al.**

The judgments are affirmed. Parrilli, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A101891 -- The People v. Calvin Terrell Worley.**

By the Court: The petition for rehearing is denied. McGuiness, P.J.

Division Four

**A106017 -- Department of Developmental Services et al. v. The Superior Court of Alameda County; Capitol People First et al.**

Let a peremptory writ of mandate issue directing the respondent superior court to vacate its order of February 5, 2004, denying the state's motion for judgment on the pleadings on the first cause of action. Respondent shall issue a new order granting the motion. The stay previously imposed by this court is dissolved. The state is entitled to recover its costs for this petition. (Cal. Rules of Court, rule 56.4(a). Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

**A102624 -- Mildred Drummond v. John Heater et al.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

**A099109 -- In re the Marriage of Van V. Halbach and Deborah Halbach.**

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

**A103129 -- Linda Pettye et al. v. City and County of San Francisco et al.**

The judgment is reversed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Certified for Publication.)

Friday, April 30, 2004 (continued)

**A095215 -- Mohamad Rashedi et al. v. John McCue et al.**

**A096717 -- Mohamad Rashedi et al. v. John McCue et al.**

The judgment is affirmed. The order denying judgment notwithstanding the verdict, granting a new trial limited to damages, and denying statutory attorney fees is affirmed. The case is remanded for a new trial on damages consistent with the views expressed in this opinion. The parties shall bear their own costs and attorney fees incurred on this appeal and cross-appeal. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

**A104390 -- The People v. Apolinar Rodriguez.**

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

**A104189 -- Shale Well v. City of Berkeley et al.**

The judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

**A103244 -- Clark Latterell v. Cross Country Bank et al.**

The order is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)